



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/682,050	10/09/2003	Sidney E. Clark	03014/1086	8135
4743	7590	03/17/2005		EXAMINER
MARSHALL, GERSTEIN & BORUN LLP 6300 SEARS TOWER 233 S. WACKER DRIVE CHICAGO, IL 60606				BARRY, CHESTER T
			ART UNIT	PAPER NUMBER
			1724	

DATE MAILED: 03/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/682,050	CLARK ET AL.
	Examiner Chester T. Barry	Art Unit 1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 04 June 2004.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-25 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-6,8,11,14,16, 17 and 22-25 is/are rejected.
 7) Claim(s) 7,9,10,12,13,15 and 18-21 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 1/26/04 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date 6/4/04.

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____.

Claims 1, 2, 4, 5, 8, 14, 17, 22, 23, 24, 25 are rejected under 35 USC Sec. 102(b) as anticipated by Prince.

USP 3997437 to Prince describes an anaerobic sludge digester comprising a sloped bottom, a middle section, and a top section. There is a lower draft tube (124, for drawing material from the bottom of the vessel), an upper draft tube (156 , for discharging material to the upper portion of the vessel), and a pump 132 for causing liquid to flow through both the upper draft tube and the lower draft tube. Per claim 14, material flows with a downward component through the upper draft tube (near where element 104 appears) and upward through the entrance to the other draft tube (near where element number 116 appears). Per claim 24, froth or foam is generated at the top because the liquid discharge from the upper draft tube is above the liquid surface in the vessel, thereby allowing air to be entrained below the liquid level thereby forming froth or foam.

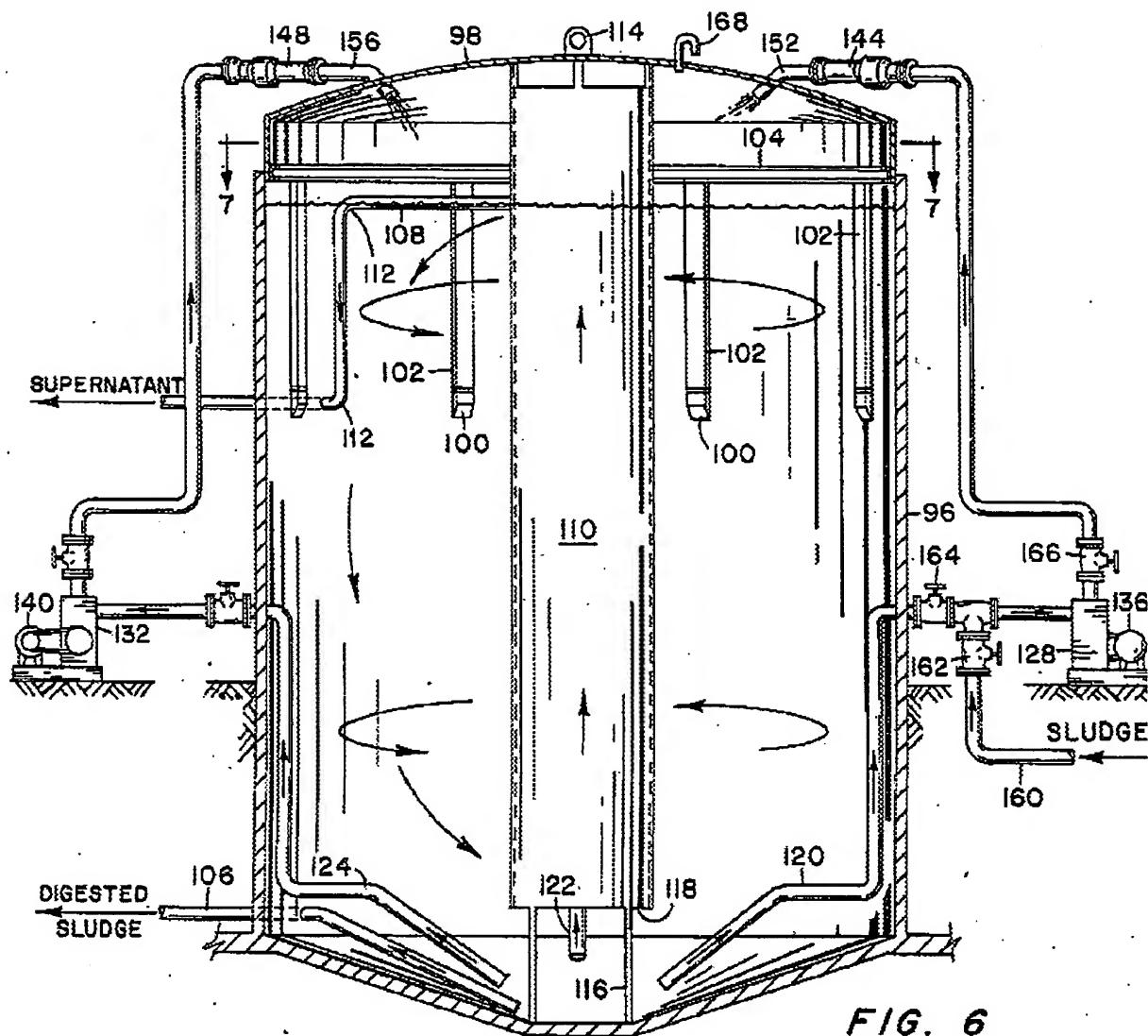


Fig. 1 – 5 of the application were compared to applicant's earlier patents (cited by applicant). Fig 1 – 5 are objected to for failing to bear the legend, "Prior Art." Similarly, the specification is objected to failure to state that the subject matter shown in Fig 1 – 5 is prior art. Correction is required.

Claims 3, 11 are rejected under 35 USC Sec. 103(a) over Prince. It would have been obvious to have used any known pumping mechanism, e.g., a jet pump, to circulate the fluid described by Prince.

Claim 16 is rejected under 35 USC Sec. 103(a) over Prince and Raven '944. According to USP 6454944 to Raven, most sludge digesters today have capacities in the 1 – 3 MM gal range. It would have been obvious to have provided a Prince digester in that commercial range, e.g., 3 MM gal.

Claim 6 is rejected under 35 USC Sec. 103(a) over Prince and USP 5409610 to Clark. Clark describes an egg-shaped sludge digester. It would have been obvious to have selected any known digester shape, such as the egg shape described by Clark '610, in order to achieve the advantages described for that type of digester shape.

Claims 7, 9, 10, 12, 13, 15, 18 - 21 are objected to as being dependent on a rejected base claim, but would be allowable if presented in independent form.



CHESTER T. BARRY
PRIMARY EXAMINER
571-272-1152